

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2381 – SB 2364

May 18, 2016

SUMMARY OF ORIGINAL BILL: Sunsets the Hamilton County water and wastewater treatment authority, granted pursuant to the Water and Wastewater Treatment Authority Act, effective July 1, 2021.

FISCAL IMPACT OF ORIGINAL BILL:

Increase Local Expenditures – Exceeds \$10,000/FY21-22*

SUMMARY OF AMENDMENTS (016297, 016340): Amendment 016297 deletes all language of the original bill. Sunsets the Hamilton County water and wastewater treatment authority, granted pursuant to the Water and Wastewater Treatment Authority Act, effective July 1, 2019. Requires such authorities existing on July 1, 2016, to submit quarterly progress reports on the plan of dissolution to the Comptroller of Treasury (COT) for fiscal year 2017-2018; and monthly progress reports on the plan of dissolution to the COT beginning on July 1, 2018. Requires all legal and financial obligations of such authority to be satisfied, closed, transferred, or otherwise assumed to satisfaction of the COT and the Department of Environment and Conservation (TDEC) prior to such authority ceasing to exist. Requires such authority to be responsible for expenses incurred by the COT.

Authorizes any authority to notify the permitting department after water and wastewater services provided to a business currently permitted are discontinued for a violation of the authority's rules, regulations, or policies. Requires the county mayor of the creating governmental entity to submit a plan of dissolution when an authority is dissolved in a manner other than as provided under current law to be approved by the COT and TDEC. Requires the county mayor to execute and file a certificate of dissolution declaring the authority to be dissolved with the Secretary of State. Requires such dissolution to be completed by July 1, 2019. Requires TDEC and COT to submit a plan of dissolution for such authority to the state funding board for approval for failure to comply with the dissolution proceedings. Requires such plan to be enforceable in chancery court with all costs to be borne by the authority.

Authorizes that the rates, prices, or changes for water, wastewater, and reuse or recycled wastewater to be flat rate, proportional to usage, or a combination thereof. Authorizes any person aggrieved to appeal the action by filing a written notice. Requires the notice of appeal to be dated and signed by the appellant and to include the appellant's mailing address and telephone number. Requires a notice of appeal to be filed with the authority's executive director or director's designee within 15 days immediately following the date of the action being challenged.

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in the notice. Requires the authority to establish rules and procedures governing the method for consideration of appeals and make copies of the rules and procedures available to their customers and post a copy of such rules and procedures at the authority's office and on its website. Requires judicial review of the disposition of an appeal be by common law certiorari filed in a court of competent jurisdiction in the county where the authority's principle office is located. Requires that no change in the authority's fees, rates, charges, penalties, or deposits be stayed unless the plaintiff posts an adequate bond sufficient to compensate the authority for any incurred losses as a result of the stay. Prohibits any class lawsuits against any authority except as to holders of the authority's bonds. Requires that the procedures constitute the exclusive method of review of actions of the board and the board's officers and employees except as to holders of the authority's bonds and employees in a civil service plan.

Amendment 016340 changes the sunset date of the Hamilton County water and wastewater treatment authority, from July 1, 2019, to July 1, 2021.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The proposed bill as amended sunsets the authority granted for water and waste water treatment created in Hamilton County.
- The Hamilton County Water and Wastewater Treatment Authority (HCWWTA) regulates the quality of water discharged into the wastewater collection system and treatment works, regulates the quality of construction of extensions to the sewer, and encourages the expansion of sewers of the wastewater collection system for eight local governments.
- According to the Department of Environment and Conservation (TDEC), the HCWWTA currently has two outstanding loans totaling \$10,000,000 from the safe water revolving fund, and it is estimated that \$6,000,000 will not be paid off until after 2019. However, it is assumed that all obligations will be settled prior to the dissolution of the Authority or such obligations will be allocated among the participating local governments. Any impact on the State Revolving Fund loan program is estimated to be not significant.
- According to local sources, the proposed bill as amended will likely have a fiscal impact on municipalities in Hamilton County that use HCWWTA. It is unknown how significant the impact will be once the HCWWTA sunsets because it is unknown who will provide sewer services, terms of any new service provider contract, if the provider will have the necessary equipment to provide the service, and what entity will absorb the costs.
- However, it is reasonably estimated that a one-time mandatory increase in local expenditures estimated to exceed \$10,000 will be incurred during the transition from the current HCWWTA to a new provider; such one-time expenses are assumed to occur in FY21-22.

- The proposed bill as amended makes water and wastewater treatment authorities submit plans of dissolution quarterly progress reports for FY17-18 and monthly progress reports beginning July 1, 2018 to the COT if such authorities existed on July 1, 2016.
- Any expenses incurred by the COT related to receiving, analyzing, filing quarterly reports for FY17-18 and monthly progress reports for FY18-19 for the authorities' plans of dissolution are estimated to be not significant.

Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/tdb